

MONTANA LEGISLATIVE HISTORY

Chapter 112 ~~19~~ 2001

Bill H 462 S _____

Original bill & history 1 C

H. Committee on NO BUDGET RESOURCES S. Committee on NO BUDGET RESOURCES

Hearing Date(s) 2/9 _____ C

Hearing Date(s) 3/5 _____ C

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Date Out _____ C

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

	SECTIONS 33-17-101, 33-17-102, 33-17-212, 33-17-214, 33-17-401, AND 33-17-1203, MCA; AND PROVIDING EFFECTIVE DATES.	479
107	(House Bill No. 458; Barrett) REQUIRING MANAGED CARE ORGANIZATIONS TO EMPLOY OR CONTRACT WITH A LICENSED PHYSICIAN TO SERVE AS A MEDICAL DIRECTOR	488
108	(Senate Bill No. 44; Bishop) PROVIDING FOR THE ACCRUAL OF PENALTIES THAT MAY BE ASSESSED AFTER A WARRANT FOR DISTRAINT HAS BEEN FILED; PROVIDING FOR UNIFORM PENALTY AND INTEREST FOR INDIVIDUAL INCOME TAXES, THE PUBLIC CONTRACTOR'S TAX, AND THE RETAIL TELECOMMUNICATIONS EXCISE TAX; AMENDING SECTIONS 15-1-701, 15-1-708, 15-30-209, 15-50-301, AND 15-53-147, MCA; AND PROVIDING AN EFFECTIVE DATE.	488
109	(Senate Bill No. 122; Shea) GENERALLY REVISING THE COOPERATIVE ASSOCIATION LAWS; ELIMINATING THE 40-YEAR LIMIT ON EXISTENCE FOR COOPERATIVE ASSOCIATIONS; CHANGING THE LIMIT ON THE NUMBER OF PERSONS WHO MAY FORM A COOPERATIVE ASSOCIATION; REMOVING THE MINIMUM REQUIREMENT FOR INITIALLY SUBSCRIBED STOCK; ELIMINATING PRICE LIMITS ON COOPERATIVE ASSOCIATION SHARES; AUTHORIZING THE SECRETARY OF STATE TO ESTABLISH FILING FEES COMMENSURATE WITH COSTS; AND AMENDING SECTIONS 35-15-103, 35-15-201, 35-15-203, 35-15-204, 35-15-205, AND 35-15-401, MCA	491
110	(House Bill No. 148; Jacobson) RELATING TO ELECTRONIC FILING FOR GASOLINE AND SPECIAL FUEL TAXES; EXTENDING THE DUE DATE FOR GASOLINE OR SPECIAL FUEL TAXES PAID BY ELECTRONIC FUNDS TRANSFER; ALLOWING A TAXPAYER TO FILE AN ELECTRONIC CLAIM FOR A REFUND ON FUEL TAXES PAID; AMENDING SECTIONS 15-70-113, 15-70-225, AND 15-70-364, MCA; AND PROVIDING AN EFFECTIVE DATE.	494
111	(House Bill No. 300; Wanzenried) REVISING THE MANNER IN WHICH AN INDEPENDENT LIABILITY FUND MAY BE TERMINATED; PROVIDING THAT AN INDEPENDENT LIABILITY FUND MAY BE TERMINATED WITHIN 5 YEARS OR ANY LEGALLY REQUIRED PERIOD OF INSURANCE COVERAGE; PROVIDING THAT A BUSINESS WITH AN INDEPENDENT LIABILITY FUND MAY TERMINATE THE FUND BY SUBSTITUTING EQUIVALENT LIABILITY INSURANCE FOR A PERIOD OF 5 YEARS OR THE LEGALLY REQUIRED PERIOD FOR INSURANCE COVERAGE, WHICHEVER IS LONGER; AND AMENDING SECTIONS 15-30-107, 15-31-118, AND 33-27-119, MCA	496
112	(House Bill No. 462; Witt) ALLOWING A PETROLEUM STORAGE TANK OWNER OR OPERATOR WHO WOULD OTHERWISE LOSE ELIGIBILITY FOR REIMBURSEMENT FROM THE PETROLEUM TANK RELEASE CLEANUP FUND BY FAILING TO REMAIN IN COMPLIANCE WITH OPERATIONAL AND CLEANUP REQUIREMENTS TO POTENTIALLY RECEIVE SOME REIMBURSEMENT WHEN NONCOMPLIANCE ISSUES ARE CORRECTED; AMENDING SECTIONS 75-11-308 AND 75-11-318, MCA; AND PROVIDING EFFECTIVE DATES	497
113	(Senate Bill No. 6; Cole) LIMITING THE LIABILITY OF A PROPERTY OWNER WHOSE PROPERTY IS TAKEN BY EMINENT DOMAIN TO INSTANCES OF NEGLIGENCE OR INTENTIONAL CONDUCT; PROVIDING FOR INDEMNIFICATION FOR COSTS AND ATTORNEY FEES FOR A PROPERTY OWNER WHO IS MADE A PARTY TO AN	

4/19 Transmitted to Governor
 4/20 Signed by Governor
 4/20 Chapter Number Assigned
 Chapter Number 267
 Effective Date: 10/01/2001 - All Sections

HB 460 Introduced by A. Peterson

LC1164 Drafter: Mitchell

Provide Voluntary Action Level for Radon Gas in Buildings

2/01 Introduced
 2/01 Referred to Natural Resources
 2/09 Hearing
 2/16 Tabled in Committee
 2/23 Missed Deadline for General Bill Transmittal

HB 461 Introduced by Shockley

LC1076 Drafter: C. Erickson

Active Duty Military Purchase of Veteran's License Plates

12/05	Fiscal Note Needed		
2/01	Introduced		
2/01	Referred to Transportation		
2/01	Fiscal Note Requested		
2/06	Fiscal Note Received		
2/08	Fiscal Note Printed		
2/12	Hearing		
2/16	Committee Executive Action--Bill Passed as Amended	18	0
2/16	Committee Report--Bill Passed as Amended		
2/20	2nd Reading Passed	97	0
2/21	3rd Reading Passed	100	0
	Transmitted to Senate		
2/28	Referred to Highways and Transportation		
3/15	Hearing		
3/16	Committee Executive Action--Bill Concurred	10	0
3/16	Committee Report--Bill Concurred		
3/23	2nd Reading Concurred on Voice Vote	48	0
3/24	3rd Reading Concurred	47	1
	Returned to House		
3/26	Sent to Enrolling		
3/26	Returned from Enrolling		
3/31	Signed by Speaker		
4/06	Signed by President		
4/06	Transmitted to Governor		
4/16	Signed by Governor		
4/16	Chapter Number Assigned		
	Chapter Number 249		
	Effective Date: 1/01/2002 - All Sections		

HB 462 Introduced by Witt

LC1418 Drafter: Mitchell

Revise Petroleum Tank Compensation Eligibility

1/03 Fiscal Note Needed
 2/01 Introduced
 2/01 Referred to Natural Resources
 2/01 Fiscal Note Requested
 2/06 Fiscal Note Received
 2/08 Fiscal Note Printed
 2/09 Hearing

2/12	Committee Executive Action--Bill Passed	18	0
2/12	Committee Report--Bill Passed		
2/14	2nd Reading Passed	98	2
2/15	3rd Reading Passed	99	1
	Transmitted to Senate		
2/21	Referred to Natural Resources		
3/05	Hearing		
3/06	Committee Executive Action--Bill Concurred	7	0
3/06	Committee Report--Bill Concurred		
3/08	2nd Reading Concurred on Voice Vote	48	0
3/09	3rd Reading Concurred	45	1
	Returned to House		
3/12	Sent to Enrolling		
3/12	Returned from Enrolling		
3/13	Signed by Speaker		
3/14	Signed by President		
3/15	Transmitted to Governor		
3/23	Signed by Governor		
3/23	Chapter Number Assigned		
	Chapter Number 112		
	Effective Date: 3/23/2001 - Sections 2 and 5		
	Effective Date: 10/01/2001 - Sections 1, 3, and 4		

HB 463 Introduced by Lee, et al.

LC1531 Drafter: B. Campbell

Provide Unemployment Insurance for Victims of Domestic Violence

1/10	Fiscal Note Needed		
2/01	Introduced		
2/01	Referred to Business and Labor		
2/06	Fiscal Note Requested		
2/07	Hearing		
2/08	Committee Executive Action--Bill Passed as Amended	18	1
2/09	Committee Report--Bill Passed as Amended		
2/12	Fiscal Note Received		
2/13	Fiscal Note Printed		
2/14	2nd Reading Passed	89	11
2/15	3rd Reading Passed	86	12
	Transmitted to Senate		
2/16	Revised Fiscal Note Requested		
2/20	Revised Fiscal Note Received		
2/21	Fiscal Note Printed		
2/21	Referred to Business and Labor		
3/07	Hearing		
3/22	Committee Executive Action--Bill Concurred as Amended	8	1
3/22	Committee Report--Bill Concurred as Amended		
3/26	2nd Reading Concurred as Amended on Voice Vote	41	3
3/26	Revised Fiscal Note Requested		
3/27	3rd Reading Concurred	44	4
	Returned to House with Amendments		
3/31	Revised Fiscal Note Received		
4/03	Revised Fiscal Note Printed		
4/12	2nd Reading Senate Amendments Concurred	98	1
4/13	3rd Reading Passed as Amended by Senate	80	20
4/13	Sent to Enrolling		
4/16	Returned from Enrolling		
4/19	Signed by Speaker		
4/21	Signed by President		

INTRODUCED BY

(Primary Sponsor)

House BILL NO. 462

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PETROLEUM STORAGE TANK OWNER OR OPERATOR WHO WOULD OTHERWISE LOSE ELIGIBILITY FOR REIMBURSEMENT FROM THE PETROLEUM TANK RELEASE CLEANUP FUND BY FAILING TO REMAIN IN COMPLIANCE WITH OPERATIONAL AND CLEANUP REQUIREMENTS TO POTENTIALLY RECEIVE SOME REIMBURSEMENT WHEN NONCOMPLIANCE ISSUES ARE CORRECTED; AMENDING SECTIONS 75-11-308 AND 75-11-318, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-11-308, MCA, is amended to read:

"75-11-308. Eligibility. (1) An owner or operator is eligible for reimbursement for the applicable percentage as provided in 75-11-307(4)(a) and (4)(b) of eligible costs caused by a release from a petroleum storage tank only if:

- (a) the release was discovered on or after April 13, 1989;
- (b) the department is notified of the release in the manner and within the time provided by law or rule;
- (c) the department has been notified of the existence of the tank in the manner required by department rule or has waived the requirement for notification;
- (d) the release was an accidental release;
- (e) with the exception of the release, the operation and management of the tank complied with applicable state and federal laws and rules that the board determines pertain to prevention and mitigation of petroleum releases when the release was discovered and remained in compliance following discovery of the release; and
- (f) the owner or operator undertakes corrective action to respond to the release and the corrective action is undertaken, in accordance with a corrective action plan approved by the department, from the time of discovery until the release is resolved.

(2) An owner or operator is not eligible for reimbursement from the petroleum tank release cleanup

1 fund for expenses caused by releases from the following petroleum storage tanks:

2 (a) a tank located at a refinery or a terminal of a refiner;

3 (b) a tank located at an oil and gas production facility;

4 (c) a tank that is or was previously under the ownership or control of a railroad, except for a tank
5 that was operated by a lessee of a railroad in the course of nonrailroad operations;

6 (d) a tank belonging to the federal government;

7 (e) a tank owned or operated by a person who has been convicted of a substantial violation of
8 state or federal law or rule that relates to the installation, operation, or management of petroleum storage
9 tanks; or

10 (f) a mobile storage tank used to transport petroleum or petroleum products from one location
11 another.

12 (3) When, subsequent to the discovery of a release, an owner or operator fails to remain in
13 compliance as required by subsection (1)(e) or fails to conduct corrective action as required by subsection
14 (1)(f) and is issued a violation letter by the department, all reimbursement of claims submitted after the
15 date of the violation letter must be suspended. Upon a determination by the department that all violations
16 identified in the violation letter have been corrected, all suspended and future claims may be reimbursed
17 according to criteria established by the board. In determining the amount of reimbursement, if any, the
18 board may consider the effect and duration of the noncompliance."

19
20 **Section 2.** Section 75-11-318, MCA, is amended to read:

21 **"75-11-318. Powers and duties of board.** (1) The board shall administer the petroleum tank
22 release cleanup fund in accordance with the provisions of this part, including the payment of
23 reimbursement to owners and operators.

24 (2) The board shall determine whether to approve reimbursement of eligible costs under the
25 provisions of 75-11-309(2), shall obligate money from the fund for approved costs, and shall act on
26 requests for the guarantee of payments through the procedures and criteria provided in 75-11-309.

27 (3) The board may conduct meetings, hold hearings, undertake legal action, and conduct other
28 business that may be necessary to administer its responsibilities under this part. The board shall meet at
29 least quarterly for the purpose of reviewing and approving claims for reimbursement from the fund and
30 conducting other business as necessary.

(4) The department shall provide staff support to the board as the department determines it is able. The board shall use the fund to pay:

(a) for department staff used:

(i) for the review or preparation of corrective action plans;

(ii) for the oversight of corrective action undertaken by owners and operators for the purposes of this part; and

(iii) for the review and processing of claims for reimbursement submitted by owners and operators under this part; and

(b) for department of transportation staff used for the collection of the petroleum storage tank cleanup fee.

(5) The board shall adopt rules to administer this part, including:

(a) rules governing submission of claims by owners or operators to the department and board;

(b) procedures for determining owners or operators who are eligible for reimbursement and determining the validity of claims;

(c) procedures for the review and approval of corrective action plans;

(d) procedures for conducting board meetings, hearings, and other business necessary for the implementation of this part; and

(e) the criteria and reimbursement rates applicable to those owners and operators who comply with a violation letter issued by the department; and

~~(e)~~(f) other rules necessary for the administration of this part.

(6) The board may apply for, accept, and repay loans from the board of investments pursuant to 17-6-225."

NEW SECTION. Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid

1 applications.

2

3 NEW SECTION. **Section 5. Effective dates.** (1) Except as provided in subsection (2), [this
4 is effective October 1, 2001.

5 (2) [Section 2 and this section] are effective on passage and approval.

6

- END -

INDEX TO BILLS IN COMMITTEE

September 10, 2001

- Committee: (H) Natural Resources -

01:52 PM

HOUSE
NATURAL RESOURCES

CHAIR: Younkin, Cindy

VICE CHAIR: Dale, Rick
Gutsche, Gail

MEMBERS:

Bales, Keith

Bitney, Rod

Brown, Dee

Clancy, Gilda

Curtiss, Aubyn

Cyr, Larry

Eggers, Bill

Erickson, Ron

Harris, Christopher

Holden, Linda

Hurdle, Joan

Laible, Rick

Laszloffy, Jeff

Mood, Douglas

Story, Bob

Tramelli, Brett

Wanzenried, David

SECRETARY: Jordan, Holly

LEGISLATIVE STAFF: Mitchell, Larry

INDEX TO BILLS IN COMMITTEE

September 10, 2001

- Committee: (H) Natural Resources -

01:52 PM

HB 457 SPONSOR: Haines, Dick SHORT TITLE: Building code enforcement in extended jurisdictional area--mail ballot election

REFERRED ON: 02/01/2001 HEARD ON: 02/14/2001
EXECUTIVE ACTION: 02/19/2001 -Bill Passed -- VOTE: 15 - 5
FINAL DISPOSITION: 04/26/2001 (S) Died in Standing Committee

HB 459 SPONSOR: Mood, Douglas SHORT TITLE: Generally revise MEPA - analysis of alternatives

REFERRED ON: 02/01/2001 HEARD ON: 02/12/2001
EXECUTIVE ACTION: 02/21/2001 -Bill Passed as Amended -- VOTE: 12 - 8
FINAL DISPOSITION: 04/20/2001 Chapter Number Assigned

HB 460 SPONSOR: Peterson, Art SHORT TITLE: Provide voluntary action level for radon gas in buildings

REFERRED ON: 02/01/2001 HEARD ON: 02/09/2001
TABLED ON: 02/16/2001
FINAL DISPOSITION: 02/23/2001 (H) Missed Deadline for General Bill Transmittal

HB 462 SPONSOR: Witt, John SHORT TITLE: Revise petroleum tank compensation eligibility

REFERRED ON: 02/01/2001 HEARD ON: 02/09/2001
EXECUTIVE ACTION: 02/12/2001 -Bill Passed -- VOTE: 18 - 0
FINAL DISPOSITION: 03/23/2001 Chapter Number Assigned

HB 473 SPONSOR: Younkin, Cindy SHORT TITLE: Revise MEPA - restrict conditions

REFERRED ON: 02/01/2001 HEARD ON: 02/12/2001
EXECUTIVE ACTION: 02/19/2001 -Bill Passed as Amended -- VOTE: 12 - 8
FINAL DISPOSITION: 04/20/2001 Chapter Number Assigned

HB 477 SPONSOR: Kasten, Dave SHORT TITLE: Prohibit use of applicant's assets in calculating fees for producing EIS

REFERRED ON: 02/02/2001 HEARD ON: 02/07/2001
HEARD ON: 02/07/2001
EXECUTIVE ACTION: 02/08/2001 -Bill Passed -- VOTE: 20 - 0
FINAL DISPOSITION: 04/16/2001 Chapter Number Assigned

HB 485 SPONSOR: Lindeen, Monica SHORT TITLE: Revise coal board funding

REFERRED ON: 02/02/2001 HEARD ON: 02/14/2001
EXECUTIVE ACTION: 02/16/2001 -Bill Passed as Amended -- VOTE: 12 - 8
FINAL DISPOSITION: 03/24/2001 (H) Missed Deadline for Appropriation Bill Transmitt

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN CINDY YOUNKIN, on February 9, 2001 at
3:00 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Cindy Younkin, Chairman (R)
Rep. Rick Dale, Vice Chairman (R)
Rep. Gail Gutsche, Vice Chairman (D)
Rep. Keith Bales (R)
Rep. Dee Brown (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Larry Cyr (D)
Rep. Bill Eggers (D)
Rep. Ron Erickson (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Rick Laible (R)
Rep. Jeff Laszloffy (R)
Rep. Douglas Mood (R)
Rep. Bob Story (R)
Rep. David Wanzenried (D)

Members Excused: Rep. Brett Tramelli (D)
Rep. Christopher Harris (D)
Rep. Rod Bitney (R)

Members Absent: None.

Staff Present: Robyn Lund, Committee Secretary
Larry Mitchell, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 460, 2/6/2001; HB 332,
2/6/2001; HB 462, 2/6/2001; HB
343, 2/6/2001
Executive Action: HB 299, HB 421

REPRESENTATIVE AUBYN CURTIS asked how prevalent does DEQ feel this problem is in the state. Mr. Compton thinks that it is very localized, site-specific.

REP. CURTIS asked if there is a disclosure requirement of realtors when they make a sale as to whether or not there is radon content on the premises. Ms. Trenk said that, yes, there is a disclosure required. She added that the point of this discussion is that, if people are spending money for this mitigation, they are spending their equity.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 45.9}

Rep. Peterson said that the reference to all the states having 4 pci/liter as a standard is what happens when you have a national agency setting a standard and in order to get those funds you better play the game according to those standards. Dr. Cox said that it is very frustrating to see this kind of thing happening and to see it continued. What happens when we know that something is incorrect and it is in the mainstream? He submitted a map that shows Radon in Indoor Air in Montana. EXHIBIT(3)

HEARING ON HB 462

Sponsor: Representative John Witt, HD 89

Proponents: Sandy Olson, DEQ
Ronna Christman, Montana Petroleum Marketers
Association

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 49.6}

Representative John Witt, HD 89, said that in many areas of Montana there have been issues with clean-up of petroleum storage tank releases. These clean-ups are never as easy or quick as we would like them to be. Often, future commercial use of the property is affected by these releases. Under the current petroleum tank release clean-up act, owners and operators of the petroleum storage facilities remain eligible for the use of the petroleum tank release compensation fund as long as they remain in compliance with the applicable regulations. However, if eligible owner or operator of a petroleum storage tank commits a

violation while remediating a release or leak from a petroleum storage tank, that owner or operator loses all eligibility for clean-up reimbursement from the federal tank release compensation fund, as the statute is currently written. This bill is a proposal under which eligibility for the fund can be restored to the owner or operator who, after being found in violation, comes back into compliance. Without these funds, remediation on a number of sites would cease until such a time as another funding source is available. Many owners and operators in small towns don't have the financial resources to undertake a remediation effort without the support of the petroleum tank release compensation fund. This bill would ensure that they are able to continue to access financial support in the event that they inadvertently fail to meet some of the compliance criteria.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 53.3}

Sandy Olson, DEQ, stated that when a tank leak occurs, an owner or operator who is in compliance becomes eligible for reimbursement of expenses, up to a cap of \$982,500. The owner/operator is required to pay up to 50% or \$17,500 for the cost of clean-up. The average cost a clean-up is \$56,000. The attorney general opinion noticed that the permanent loss of eligibility did not appear to be consistent with legislative intent. This bill proposes to restore eligibility to the fund if the owner/operator comes back into compliance. Owners and operators making a sincere effort to be in compliance will not be penalized by permanent loss of eligibility, should they have a problem. Adoption of this bill would facilitate clean-up of release sites over the long term and continued availability of funding would encourage owners and operators to remain in compliance and to return to compliance should a violation occur.

Ronna Christman, Montana Petroleum Marketers Association, said that her organization is in support of this effort to clarify the eligibility requirement. A violation may be something as simple as forgetting to fill out a monthly inventory control record.

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 0.3}

REPRESENTATIVE BOB STORY asked what some of the violations are that would create ineligibility. Ms. Olson said that some things they have seen would be failure to report releases immediately, failure to implement corrective actions. There have also been a number of smaller issues.

REPRESENTATIVE JOAN HURDLE asked a question of Ms. Olson. How do you assess if a business has come back into compliance?

Ms. Olson replied that, when a violation is issued, there is normally an abatement order in it; that order tells how you are to fix the violation. The board is wanting to look at timeliness of compliance with that abatement order. **REP. HURDLE** is trying to figure out what exactly a clean-up is. **Ms. Olson** said that free products and contaminated soil must be removed. Once that is done they can backfill with clean soil. This is one way of doing a clean-up.

REPRESENTATIVE RICK LAIBLE asked what the driving factor was that caused this bill to be drafted. **Rep. Witt** said that it goes back to some discussion in his community. There is some animosity felt towards the agency.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 5.7}

Rep. Witt pointed out that there is a fiscal note with this. The opportunity for Mom and Pop businesses to get back into business is worth the cost. This could impact everyone in this room.

HEARING ON HB 332

Sponsor: Representative Rick Dale, HD 39

Proponents: Ronna Christman, Petroleum Marketers Association
Burl French, Northwest Fuel Systems

Opponents: Mike Crumley, Keneco Petroleum

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 7.1}

Representative Rick Dale, HD 39, said that this bill concerns the inspection process. Currently the law that covers the inspection part of the underground tank program has been in place for two years. It was an effort that required considerable input and was accomplished late in the last session. It was felt that it was important because it would provide a way, where there had been releases from underground storage tanks, for those to be cleaned up and a new installation be put into service and then those installations inspected. It also provided the parameters by which new installations would be inspected. At that time, they were in such a hurry that they didn't really think into the

mines. Bonding is important, but he doesn't think it is a problem.

REP. CURTIS said that, since 1955, there have only been 39 complaints filed.

CHAIRPERSON YOUNKIN thought that line 17 on page 3 seems to be too broad for her to be comfortable with. Can the sponsor respond to that? REP. ERICKSON said that the same line is seen in three other sections of the law. Perhaps the concern is that there are more gravel pits than other kinds of mines. There are some bad actors, but mostly there are good actors. This gives us a chance to put this type of mining in line with other kinds of mining. CHAIRPERSON YOUNKIN said that there are places where gravel pits are being encroached by urbanization. She sees this as a potential for increased conflict where there was not before. REP. ERICKSON doesn't see that there will be this problem.

Motion/Vote: REP. ERICKSON moved that HB 299 DO PASS AS AMENDED. Motion failed 8-12 with Cyr, Eggers, Erickson, Gutsche, Harris, Hurdle, Tramelli, and Wanzenried voting aye.

By committee consensus the vote was reversed to table the bill. HB 299 was tabled.

EXECUTIVE ACTION ON HB 462

Motion/Vote: REP. ERICKSON moved that HB 462 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 421

Motion: REP. ERICKSON moved that HB 421 DO PASS.

Motion: REP. GUTSCHE moved that AMENDMENT 42101 TO HB 421 DO PASS. Motion carried unanimously.

Motion/Vote: REP. WANZENRIED moved that AMENDMENT 42102 TO HB 421 DO PASS. Motion carried unanimously.

Motion: REP. ERICKSON moved that HB 421 AS AMENDED DO PASS.

Discussion:

REP. GUTSCHE said that people all over the state talked about this as being really problematic. This is a concern from many people all over.

INDEX TO BILLS IN COMMITTEE

September 10, 2001

- Committee: (S) Natural Resources -

02:26 PM

SENATE

NATURAL RESOURCES

CHAIR: Crismore, William **VICE CHAIR:** Mahlum, Dale

MEMBERS:

Cocchiarella, Vicki

Cole, Mack

Grosfield, Lorents

McCarthy, Bea

Miller, Ken

Roush, Glenn

Tash, Bill

Taylor, Mike

Toole, Ken

SECRETARY: Bleck, Nancy

LEGISLATIVE STAFF: Vandenbosch, Mary

INDEX TO BILLS IN COMMITTEE

September 10, 2001

- Committee: (S) Natural Resources -

02:26 PM

-
- HB 462** SPONSOR: Witt, John SHORT TITLE: Revise petroleum tank compensation eligibility
REFERRED ON: 02/21/2001 HEARD ON: 03/05/2001
EXECUTIVE ACTION: 03/06/2001 -Bill Concurred -- VOTE: 7 - 0
FINAL DISPOSITION: 03/23/2001 Chapter Number Assigned
-
- HB 473** SPONSOR: Younkin, Cindy SHORT TITLE: Revise MEPA - restrict conditions
REFERRED ON: 02/28/2001 HEARD ON: 03/12/2001
EXECUTIVE ACTION: 03/19/2001 -Bill Concurred as Amended -- VOTE: 7 - 4
FINAL DISPOSITION: 04/20/2001 Chapter Number Assigned
-
- HB 477** SPONSOR: Kasten, Dave SHORT TITLE: Prohibit use of applicant's assets in calculating fees for producing EIS
REFERRED ON: 02/21/2001 HEARD ON: 03/12/2001
EXECUTIVE ACTION: 03/20/2001 -Bill Concurred -- VOTE: 11 - 0
FINAL DISPOSITION: 04/16/2001 Chapter Number Assigned
-
- HB 495** SPONSOR: Olson, Alan SHORT TITLE: Provide the transfer of revoked coal mine permits
REFERRED ON: 02/28/2001 HEARD ON: 03/23/2001
EXECUTIVE ACTION: 03/29/2001 -Bill Concurred as Amended -- VOTE: 8 - 3
FINAL DISPOSITION: 05/01/2001 Chapter Number Assigned
-
- HB 513** SPONSOR: Fuchs, Daniel SHORT TITLE: Revise water quality laws for nitrates for single-family systems
REFERRED ON: 02/28/2001 HEARD ON: 03/16/2001
TABLED ON: 03/24/2001
FINAL DISPOSITION: 04/26/2001 (S) Died in Standing Committee
-
- HB 543** SPONSOR: Brown, Roy SHORT TITLE: Revise subdivision and growth policy laws
REFERRED ON: 03/01/2001 HEARD ON: 03/23/2001
EXECUTIVE ACTION: 03/27/2001 -Bill Concurred as Amended -- VOTE: 9 - 0
FINAL DISPOSITION: 05/01/2001 Chapter Number Assigned
-
- HB 572** SPONSOR: Bales, Keith SHORT TITLE: Adjust and redistribute money derived from natural gas from coal beds
REFERRED ON: 03/21/2001 HEARD ON: 03/26/2001
EXECUTIVE ACTION: 03/29/2001 -Bill Concurred as Amended -- VOTE: 9 - 2
FINAL DISPOSITION: 05/01/2001 Chapter Number Assigned
-

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN WILLIAM CRISMORE**, on March 5, 2001 at 3:15 P.M., in Room 317-B/C Capitol.

ROLL CALL

Members Present:

Sen. William Crismore, Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Mack Cole (R)
Sen. Ken Miller (R)
Sen. Glenn Roush (D)
Sen. Bill Tash (R)
Sen. Mike Taylor (R)
Sen. Ken Toole (D)

Members Excused: Sen. Dale Mahlum, Vice Chairman (R)
Sen. Lorents Grosfield (R)
Sen. Bea McCarthy (D)

Members Absent: None.

Staff Present: Nancy Bleck, Committee Secretary
Mary Vandembosch, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 125, 3/1/2001; HB 126,
3/5/2001; HB 462, 3/1/2001
Executive Action: HB 166; HB 147; HB 126; HB 462

EXECUTIVE ACTION ON HB 166

Motion: SEN. MILLER moved that AMENDMENTS TO HB 166 BE ADOPTED.

Discussion: Mary Vandembosch, legislative staffer, explained the amendments (HB016603.amv) that in the title, line 5, "CERTAIN

SENATE COMMITTEE ON NATURAL RESOURCES

March 5, 2001

PAGE 9 of 13

Kurt Chisholm, Deputy Director, Montana Department of Environmental Quality, supported HB 126 and offered written testimony, EXHIBIT(3).

Frank Crowley, Helena, on behalf of Asarco, stated the DEQ was not the only agency in state government that had run into these logistical, internal developments. He had a situation with the Montana Department of Public Health and Human Services (DPHHS) regarding a certificate of need for home health care in which the chief legal counsel for the DPHHS ended up having to argue for the director and the director contracted Mr. Crowley as outside counsel. It was not unmanageable but was rather awkward and certainly was not very efficient. He supported this simple bill.

Peggy Trenk, Montana Association of Realtors, supported this bill for the same reasons already mentioned and very importantly because of the last paragraph on page five continued on page six that acknowledged local regulations and addressed the referral of the local compliance issues to the appropriate local authority upon receipt of a hearing request and incorporated that determination in the board's final decision.

John Wilson, Montana Chapter of Trout Unlimited, rose in support of this bill.

Angela Janacaro, Montana Mining Association, supported HB 126.

Don Allen, Western Environmental Trade Association, also stood in support of this legislation.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

REP. YOUNKIN closed without new remarks and urged concurrence in HB 126. {Tape : 1; Side : B; Approx. Time Counter : 21.4 - 31.9}

EXECUTIVE ACTION ON HB 126

Motion/Voice Vote: SEN. TAYLOR moved that HB 126 BE CONCURRED IN. Motion carried unanimously with a vote 8-0. SEN. TAYLOR would carry HB 126 on the Senate floor.

{Tape : 2; Side : A; Approx. Time Counter : 0 - 1.6}

HEARING ON HB 462

010305NAS.Sml

Sponsor: REP. JOHN WITT (R), HD 89, Carter

Proponents: Sandi Olsen, Administrator, Remediation Division,
Montana Department of Environmental Quality
Margaret Morgan, Montana Petroleum Marketers
Association

Opponents: None.

Opening Statement by Sponsor:

REP. JOHN WITT, HD 89, Carter, stated HB 462 revised petroleum tank compensation eligibility by allowing a petroleum storage tank owner or operator, who would otherwise lose eligibility for reimbursement from the Petroleum Tank Release Cleanup Fund by failing to remain in compliance with operational and cleanup requirements, to potentially receive some reimbursement when noncompliance issues were corrected. It would amend sections 75-11-308 and 75-11-318 of the Montana codes and provided effective dates.

Proponents' Testimony:

Sandi Olsen, Administrator, Remediation Division, Montana Department of Environmental Quality, explained that HB 462 was requested by the DEQ on behalf of the Petroleum Tank Release Compensation Board which was attached to the DEQ. The board administered petroleum tank release compensation funds for the remediation of eligible petroleum releases making funds available to owners and operators to maintain their tanks consistent with the regulatory requirements. When a tank leak occurred, the owner or operator was in compliance because of eligibility for reimbursement of clean-up expenses up to a potential maximum of \$982,500. The owner or operator was required to pay 50% of the cost of the clean-up until costs exceeded \$35,000. The average cost of clean-up was \$56,000 and occasionally clean-ups had utilized the entire \$982,500 available for site remediation and associated third party damages. As confirmed in the Attorney General's opinion last summer, it was also noted that the permanent loss of eligibility did not appear to be consistent with past legislative attempts. Under HB 462, as the board believed, eligibility for the fund could be restored to an owner or operator who after being found in violation came back into compliance. The board would like to adopt rules describing how the significance of the violation as well as the timeliness for compliance was considered setting and determining future fund eligibility; owners and operators making a sincere effort to be in compliance without being penalized by the permanent loss of

eligibility. Many owners and operators of these facilities had limited resources and expertise to address remediation when a leak occurred. Once eligibility was lost, the probability the site was cleaned up in a timely fashion dropped and contamination continued to spread. When an owner or operator lost eligibility, they remained responsible for clean-up of the release. In addition, the site was added to and ranked on the DEQ'S list of sites for further action. The site might eventually be remediated using the Leaking Underground Storage Tank Fund if the site met the federal definition of an underground storage tank and if the owner or operator was financially insolvent or recalcitrant. In the case of a recalcitrant owner or operator, the owner or operator remained liable for the cost of clean-up and the DEQ pursued cost recovery actions. Adoption of **HB 462** would facilitate clean-up of release sites over the long term and continue the availability of funding for the current owners and operators to both remain in compliance and to return to compliance should violations occur. Therefore, the DEQ and the board urged support of this bill.

Margaret Morgan, Montana Petroleum Marketers Association, supported the Petroleum Board's efforts to clarify the circumstances of eligibility that occurred after the original determination. She stated it was non-productive to discontinue total eligibility for something as simple as a paper violation and added that discontinuing eligibility under those circumstances could possibly jeopardize the entire clean-up effort. She urged support of **HB 462**.

Questions from Committee Members and Responses:

SEN. BILL TASH asked if this legislation related to small tanks. **Ms. Olsen** was not sure of that answer but replied that there were certain criteria set up in statute that established thresholds for tanks with some exempted. She believed the tanks usually covered typically ranged roughly from 5,000 to 7,000 gallons capacity. **SEN. TASH** asked about the termination date on small tanks. **Ms. Olsen** responded there was a deadline in 1998 for upgrading tanks or closing them and that deadline had passed. The closed tanks were supposed to be officially closed under a department permit by December 1999 with most owners and operators following through on that though some had not and the DEQ was pursuing a course of action against those operators that had not properly closed their tanks.

Closing by Sponsor:

REP. WITT closed by explaining the fiscal note with annual costs assumed to be \$56,000. He added that this issue of problems with ground storage tanks with spills and leaks had affected all of us in many areas across the state and this bill encouraged clean-up efforts. He urged passage of HB 462.

{Tape : 2; Side : A; Approx. Time Counter : 1.6 - 18}

EXECUTIVE ACTION ON HB 462

Motion/Vote: SEN. TASH moved that HB 462 BE CONCURRED IN. Motion carried unanimously with 7-0 vote. SEN. TASH agreed to carry HB 462 on the Senate floor.

{Tape : 2; Side : A; Approx. Time Counter : 18 - 19.3}